

JAP:PT
F.#2000R02268

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - - X

UNITED STATES OF AMERICA

00-CR-1274-25 (JG)

- against -

JEAN MAXON LUCIEN,
also known as
"Etienne Francois" and
"Francois Etienne,"

AFFIRMATION

Defendant.

- - - - - X

I, Paul Tuchmann, hereby affirm and state:

1. I am an Assistant United States Attorney in the Office of Benton J. Campbell, United States Attorney for the Eastern District of New York.

2. I make this application based upon a review of court records and conversations with others, to request that the Court reissue an arrest warrant for the above-named defendant.

3. The above-named defendant, Jean Maxon Lucien ("the defendant"), was arrested on October 18, 2000 on the basis of a complaint filed in the United States District Court for the Eastern District of New York on October 11, 2000. The defendant was released on \$100,000 bond on October 18, 2000, and then indicted on December 14, 2000, together with more than two dozen other defendants, on thirty-three counts of health care fraud and mail fraud. The indictment charged the defendant with being a

"recruiter" in an auto accident ring. Participants in this scheme staged auto "accidents," so as to fraudulently obtain insurance benefits by falsely claiming to have sustained injuries during the staged accidents. These benefits included medical and physical therapy treatment payments, as well as car service payments.

4. The defendant was scheduled, with his codefendants, to be arraigned on the above-captioned indictment before the Court on February 15, 2001. The defendant failed to appear for arraignment on that date, and on February 16, 2001 the Court issued a warrant for his arrest, a copy of which is annexed hereto as Exhibit A.

5. On the evening of February 25, 2008, a man with the name "Jean Max Lucien" appeared at the Highgate Springs, Vermont Port of Entry seeking admission to the United States from Canada. The Jean Max Lucien appearing in Vermont was arrested and transported in custody from Vermont to the United States District Court for the Eastern District of New York in Brooklyn.

6. Upon this man's arrival in Brooklyn, on March 17, 2008, an Assistant United States Attorney who was familiar with the appearance of the defendant, both from having seen the defendant in person in 2000 and from a photograph of the defendant taken by pre-trial services in 2000, determined that

the Jean Max Lucien who had been arrested in Vermont and brought to Brooklyn was not in fact the defendant.¹

7. Upon learning that the person who had been brought to Brooklyn was not the defendant sought in the arrest warrant, the United States Attorney's Office moved before the Honorable Ramon Reyes, Jr. for the Jean Max Lucien who had been arrested in Vermont to be released forthwith.

8. I am advised by FBI agents that because of the February 2008 arrest of the Jean Max Lucien in Vermont, the arrest warrant for the defendant issued by the Court on February 16, 2001 was removed from the NCIC system, so there is currently no such warrant outstanding in the NCIC system for the defendant. Accordingly, I am advised by the FBI that an arrest warrant for the defendant needs to be reissued so the warrant for the defendant's arrest can be reentered into the NCIC system.

¹ The Jean Max Lucien appearing in Vermont on February 25, 2008 gave his birthday as June 25, 1956, and his birth country as Haiti, the birth date and birth country listed in the National Crime Information Center ("NCIC") database for the defendant. The fingerprints of the Jean Max Lucien appearing in Vermont that day also matched the fingerprints listed in the NCIC database for the defendant. Later, it was determined that due to an error made when entering the defendant's identifying information into the NCIC system, the identifying information listed for the defendant in NCIC was not in fact the identifying information of the defendant; in fact, the identifying information listed for the defendant in NCIC (such as date and place of birth and fingerprints) was the identifying information of a different Jean Max Lucien of Haitian origin, a man who had been detained by federal agents on immigration charges in the 1970s. It was apparently this man who was stopped at the border in Vermont in February 2008.

WHEREFORE, it is respectfully requested that the Court reissue a warrant for the arrest of the defendant, Jean Maxon Lucien, also known as "Etienne Francois" and "Francois Etienne."

The foregoing is affirmed under the penalties of perjury.

Dated: Brooklyn, New York
June 6, 2008

/s/
Paul A. Tuchmann
Assistant United States Attorney